

SEED ADVISORY BOARD
California Department of Food and Agriculture
University of California, Davis
1111 Plant Reproductive Biology Building
Davis, CA 95616
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Roll Call

Chairman Scarlett called the meeting to order at 8:04 am and conducted roll call.

Members present were:

George Hansen
Rick Falconer
Gabe Patin
Ron Tingley
Larry Hirahara
Marc Meyer

Agenda Item #1 - Introduction of Guests, Board Appointments and Housekeeping

Guests present were:

John Heaton, California Department of Food and Agriculture – Seed Services Program
Betsy Peterson, California Seed Association
Deborah Meyer, California Department of Food and Agriculture's Seed Laboratory
Jim Effenberger, California Department of Food and Agriculture's Seed Laboratory
Dr. Riad Baalbaki, California Department of Food and Agriculture's Seed Laboratory
Dr. Umesh Kodira, California Dept of Food and Agriculture's Plant Diagnostic Center
Dr. Allen Van Deynze, UC Davis Seed Biotechnology Center
Dr. Kent Bradford, UC Davis Seed Biotechnology Center
Susan Webster, UC Davis Seed Biotechnology Center
Bob Stewart, California Crop Improvement Association.

Board Appointments

Chairman Scarlett welcomed Marc Meyer of Seminis Seeds as a new member to the Board and noted the reappointment of Gabe Patin, Larry Hirahara, Cannon Michael and Ken Scarlett.

Housekeeping

Heaton requested that new members complete the oath form, establishment of headquarters form, authorization for use of private vehicle form and the travel expense form, so he may submit them to the proper departments.

Agenda Item #2 - Approval of Minutes

Chairman Scarlett asked if there were any corrections or changes to the draft of minutes for the last meeting. There were none.

Member Hirahara motioned that the draft be approved by the Board. Member Tingley seconded the motion. The motion was unanimously passed.

Agenda Changes

None were requested.

Agenda Item #3 - Seed Laboratory Report

Deborah Meyer reported that the California State Seed Laboratory is currently staffed with five Seed Botanists, two Agricultural Biological Technicians and a couple of student aides or laboratory assistants.

In 2005, approximately 63% of the workload was related to seed quality assessment, 27% was related to quality management such as equipment calibrations, preparations of reports and various database maintenance operations. The remaining 10% of the time was devoted to professional enhancement such as various workshops and seminars.

Ms. Meyer noted that longtime employee Marian Stephenson retired in November, at which time the Department initiated a search for her replacement. In April the Department hired Dr. Riad Baalbaki. His experience includes a PhD. in Crop and Soil Science with a concentration in Seed Physiology. He also has extensive experience as a professor and manager of the seed technology laboratory in the Department of Plant Sciences at the American University in Beirut, Lebanon.

Ms. Meyer directed the Board's attention to page two of her handout for a summary of the lab's workload in 2005. Figure 1 showed that slightly more than one-half of the tests conducted on seed samples were related to regulatory compliance, while service and quarantine samples each received about 25% of the remaining tests.

Figure 2 showed that the majority of regulatory samples are single component agricultural seed samples while about 15% are multiple-component agricultural seed samples that require separation of the components. The remaining 31% of the regulatory samples were vegetable seeds.

Service sample testing primarily involved vegetable seeds that were sent to the laboratory by fee-paying customers.

A year-to-date comparison of the overall sample load showed a slight reduction from the previous year. This reduction was primarily attributed to fewer quarantine and regulatory samples. Ms. Meyer noted that the number of service samples and identification samples were higher. She explained that identification samples are received when Border Inspectors find unknown seeds in shipments destined for California. They send digital images of the seed for initial identification with follow-up samples arriving later. By using digital images that can be transmitted electronically, the shipments may continue to their destinations without lengthy delay. The laboratory staff hopes to provide additional training to Border Inspectors this fall in order to demonstrate the best way to photograph seeds submitted for identification.

For service samples, the laboratory has billed over \$17,000, which can be compared to only \$12,000 billed at the same time last year for service samples.

Ms. Meyer directed the Board's attention to Figure 4 of the handout which provided a summary of the lab's efforts to process quarantine samples over the last fourteen years. She noted the low part of the curve occurred in 1996 with 1300 quarantine samples and the high point occurred in 2001 with 1900 samples. Figure 5 showed that in the early 90s the bulk of the quarantine samples were coming from 3 counties (Los Angeles, Alameda, Fresno) and the state of Oregon. In the late 90s however, a program called Origin Inspection caused the percent of quarantine samples processed by the lab to significantly increase.

Ms. Meyer explained that the Origin Inspection Program involves the Oregon Department of Agriculture collecting grass seed samples mainly, that are then sent to the CDFA Seed Lab for testing. The CDFA lab then issues quarantine clearance or rejection notices before the seed is loaded on trucks and shipped to California. Previously, as seed arrived at the border, CDFA Border Inspectors would have to notify the counties that the seed was coming. When the seed arrived in the counties, the County Agricultural Biologists would collect a quarantine sample and ship it to the CDFA Seed Lab for determination of noxious weed seed presence. If the sample failed, the shipment would be rejected and returned to the sender or shipped out of the state. The Origin Inspection Program avoids that lengthy scenario and provides quarantine clearance before the seed is shipped.

During the past year the CDFA Seed Lab provided training for two individuals preparing for the Registered Seed Technologists (RST) test. The lab staff also conducted an annual two-day workshop for seed analysts. In addition, Ms. Meyer traveled to Idaho to teach a course on seed testing procedures for large seeded legumes. At a different meeting in Saskatoon, Saskatchewan, Ms. Meyer presented a comparison of the seed testing rules of the International Seed Testing Association (ISTA), the Association of Official Seed Analysts (AOSA) and the Canadian Food Inspection Agency (CFIA). Discrepancies between these rules are sometimes the basis of trade problems for seed in international commerce. While in Saskatoon, Mr. Effenberger and Ms. Meyer also demonstrated the LUCID computer-based seed key program which was developed by a USDA employee working at the CDFA lab location. Ms. Meyer explained that the LUCID program leads a person, step by step, through the proper procedures to handle and identify the parts of a seed sample.

Member Patin asked if the LUCID system is used for samples collected at the border.

Ms. Meyer explained that the procedure at the border is different. Basically the Border Inspectors select areas of the truck to inspect and look for noxious weed seeds that they then photograph. The identity of the noxious weed seed may then be confirmed by the lab from photographs sent in the email.

Dr. Bradford asked if there is a plan for Border Inspectors to eventually use the LUCID Program to identify possible noxious weed seeds.

Ms. Meyer answered that it may eventually be possible, however for the immediate future, the lab has only been asked to compile a set of photographs for the California noxious weed seeds. This is a different list of species than what occurs on the Federal list. The set of photographs is especially important because some of the Border Inspection Stations do not have access to the internet.

The last page of the handout contained a list of the various committees and organizations that Mr. Effenberger and Ms. Meyer participate on.

Agenda Item #4 – Status of Seed Sampling by CDFA Associate Ag. Biologists

John Heaton directed the Board's attention to a white handout titled "Status of Seed Sampling by CDFA District Biologists" dated May 8, 2006. He explained that each month a status report is sent to him by the seed lab so that he can follow the progress of CDFA staff collecting seed samples. The handout showed that with one month remaining in the contract year, the Fresno and Sacramento Districts were within 5% of their target number of samples, while the Redding and Riverside Districts were about 70% of their target number of samples. He explained that if samples recently received by the lab were added to the tally, the Redding and Riverside districts would tally closer to 85% of their target number of seed samples.

Overall, Heaton felt that the CDFA Associate Ag Biologists were doing a good job with 85% of their target number of samples submitted and more than one month left to collect the remaining 15%. While he acknowledged that initially there was a rocky start, due to assignment of new responsibilities and a change in personnel, he was pleased with the progress the CDFA staff showed.

Chairman Scarlett asked Heaton who determined the target number of samples that should be taken.

Heaton stated that after receiving the new directive from the Board, he met with his staff and the lab staff in July to discuss the new directive. Based on the workloads of the District Agricultural Biologists and the number of samples waiting to be processed in the lab, he made the decision to reduce the number of samples to be collected. He explained that his decision was based on the expected personnel changes in the lab and the need for flexibility to use his staff in capacities other than just sampling. He stated that he believes his decision was validated by events that transpired since July.

He noted that since July he was able to use his staff to respond to three seed complaints. He emphasized that only one biologist - the Fresno district biologist - is assigned full-time to the Seed Services Program. The salaries of the other Districts Biologists are partly paid by other programs. For example, the Seed Services Program pays 50% of the salary for the biologist in Redding and 50% of the salary for the biologist in Sacramento.

The two Riverside Biologists each receive 25% of their salaries from the Seed Services Program. Since the Seed Services Program only pays part of their salaries, it can only expect to use a corresponding part of their work schedules. If their schedules are filled 100% with collecting regulatory samples, they may not be able to assist Heaton when he needs to act quickly about a seed complaint.

For example, when a seed complaint was filed July 1, 2006, Heaton requested the Redding biologist to drive from Redding to Colusa to collect an investigatory seed sample. That one request took the better part of a day for the biologist to travel and pull just one investigatory seed sample.

Dr. Van Deynze asked Heaton if he was happy with the transition from county inspectors to CDFA staff collecting samples. He also wanted to know if the number of errors for sample submissions has been reduced.

Heaton responded that he was happy with the transition. He recently reviewed the laboratory results and noted that approximately 85% of the samples tested, were in compliance with the California Seed Law. This is comparable to previous years. He also stated that he has seen a reduction in the number of mistakes for samples submitted to the lab. He previously had to spend much of his time addressing sample mistakes but since CDFA took over the sampling, the amount of time spent addressing sample mistakes has been significantly reduced. He expects there will be even fewer errors that require his immediate attention.

Chairman Scarlett asked if the Program is targeting any kinds of seed for increased sampling or enforcement activities.

Heaton explained that two-thirds of the samples submitted have been agricultural seeds and about one-third have been vegetable seeds. Within the agricultural seeds portion, about 20% of the samples have been grass seed samples. He offered that if the Board wanted the Seed Services Program to focus sampling in one area or another, he could make the necessary adjustments.

Gabe Patin noted that origin inspection in Oregon should have a positive effect on the quality of seed coming into California.

Ron Tingley noted that Idaho used to have a similar origin inspection scheme but more recently they switched back to sampling the lots of seed when they arrived. The assumption is that Idaho felt this was necessary because they believed that the seed arriving in their state was not representative of the seed in the origin inspection analysis. He noted that the system depends a great deal on the merit and integrity of people doing the sampling at the point of origin. He expressed that he believes it is important to still check the seed when it arrives at the point of destination.

Heaton stated that he recently received phone calls from Oregon shippers that want to streamline the entry of seed into California. They would prefer to have the Border

Inspectors pull quarantine samples rather than individual counties. They believe there is too much delay when a seed lot arrives at the border and is then distributed to perhaps fifteen different counties and waits for quarantine clearance by each county. Heaton suggested that such companies should simply be referred to the Origin Inspection Program in Oregon. He noted however, that Border Inspectors are also stepping up efforts for quarantine sampling.

Gabe Patin wanted to know if the Origin Inspection Program was voluntary or mandatory. In addition, he wanted to know when it was implemented.

Jim Effenberger stated that he was working with Mark Sterling of CDFA, on the Origin Inspection Program. He noted that Origin Inspection is only addressing quarantine considerations and not necessarily regulatory considerations, although occasionally there is some overlap. He cited several occasions when the lab evaluated a quarantine sample and observed that the label was not correct, at which time the county was notified that they could take enforcement actions.

Heaton noted that he has included label evaluations of quarantine shipments the new Report 6s that counties submit each month toward fulfillment of their subvention contract. The intent of this new category for evaluation of labels in 008 inspections is to provide an incentive for counties to check seed labels for compliance to the California Seed Law at the same time that they perform their quarantine inspections.

Gabe Patin asked if Origin Inspection reduces the amount of seed in the state that is out of compliance.

Deborah Meyer explained that the lab is only looking for quarantine issues and is not necessarily looking at viability or purity of samples submitted under the Origin Inspection Program. Obvious label violations get brought to the county's attention, but for the most part the lab is only dealing with the quarantine considerations.

Heaton stated that when the lab found labeling violations of one large grass seed shipment, the supplier decided to simply remove the inventory from California, probably because it was cheaper than trying to fix the problem.

Chairman Scarlett asked if the lab finds more problems with grass seed than other kinds of seed. He was curious if 85% of the samples are in compliance, how many of the remaining 15% of samples out of compliance are actually grass seed.

Heaton explained that of the 15% of samples not in compliance, about 7.5% are due to the stated germination being slightly out of tolerance, and another 7.5% have purity statements for multi-component products that are also slightly out of tolerance. Very few samples are found to be way off when they violate germination or purity component analysis. Heaton has not determined what proportion of the failed samples occur in each category of seed.

Scarlett noted that the Board has previously discussed the fact that problems appear to be more prevalent in grass seeds than in other kinds of seed.

Deborah Meyer explained that more tests must be performed when you do a purity analysis on grass seed mixes than when you simply look at the kind of vegetable seed and its germination. She added that although it is not required, the lab does look for, and find, noxious weed seeds in the vegetable seed regulatory samples, at which time they notify the county.

Heaton stated that during the year, he received a communication from the seed lab that there were a large number of grass seed samples being submitted. In response to that communication, he sent an email to the CDFA District Biologists and requested they not submit quite so many grass seed samples. He cited this event as an example of how CDFA samplers can quickly change the concentration of their sampling efforts.

Agenda Item #5 – Out-of State Travel Proposals.

Heaton directed the Board's attention to the blue handout, which contained a summary of the Out-of State Travel Proposals. He noted that the proposed trips have not been approved by the Department and that they represent all the trips that might be attended in the next year. These proposed trips will be included in the Department's overall travel blanket which will be scrutinized at many levels before spending authority is granted. He expects that some of the trips may be "trimmed" and he likes to include some marginal trips because sometimes the need arrives to take an out of state trip that was unforeseen. He believes it is wise therefore to include a couple of marginal trips in the proposals so the Program can obtain enough spending authority to take unforeseen trips.

Heaton noted the importance of attending the annual meeting of the Association of American Seed Control Officials (AASCO) in Billings, Montana. He reported that he participated in the semi-annual meeting held in San Diego where there were numerous discussions about seed sampling protocol. One discussion of importance to California seed producers was the discussion about the maximum seed lot size that will be eligible for sampling and certification under the proposed USA Accredited Sampler and Laboratory Systems. Heaton stated that members from the larger seed producing states successfully negotiated a compromise for seed lot size and were ultimately able to get the proposed seed lot sizes adjusted upwards to a size that was more realistic for California seed producers.

A trip to MidWest Seeds in Brookings South Dakota was proposed as insurance in the event that the USA Sampler Accreditation Program does not get implemented in the future. Heaton felt it would be wise to have the ability to send an Associate Agricultural Biologist for training to become an accredited ISTA-sampler (International Seed Trade Association) in case government and university samplers lose their exemption from having to be formally accredited to pull official samples. Heaton explained that although he successfully completed the ISTA sampler training, he has not pursued the final certification because there is a significant cost for the final certificate. He reminded the

Board that employees of private companies can also obtain ISTA sampler training and can pay to become ISTA accredited samplers.

The final trip of the proposal was for a Senior Seed Botanist or designee to attend the 28th Annual Seed Testing ISTA Conference in Brazil. Heaton stated that since ISTA is responsible for international standardization of seed testing for quality, it is important for someone from CDFA to attend if we want to have input to those discussions and rules.

Deborah Meyer explained that ISTA used to only meet every three years. Now they have annual interim meetings and their Congress meets every third year. The Congress meeting includes business meetings, committee meetings and three days of seminars or scientific meetings.

Heaton noted that the only way to have consideration for your state's circumstances before rules are made is to have input at those meetings. He emphasized that the best way to do that is to have a knowledgeable person present at the meeting.

Chairman Scarlett asked if there was a national group that attends the ISTA Conference.

Ms. Meyer responded that the U.S. representative is the Federal Seed Laboratory. She noted however, that other people are invited to participate on various ISTA committees. Although she has been on the ISTA Purity Committee for many years, as AOSA Rules Chairperson she also gets a seat on the ISTA Rules Committee. Unfortunately Ms Meyer has only been able to attend two ISTA meetings due to funding considerations.

Heaton repeated that these trips are only proposed and that before anyone travels they must obtain authorization up the chain of command. For international trips, the Governor is required to authorize the trip.

Gabe Patin asked what percentage of the money proposed for out of state travel actually gets used by the program and how much larger is the present proposal than the previous year's proposal. Heaton replied that the current proposal is about two thousand dollars larger than last year's proposal and that his best estimate is that about ninety percent of that will be used. He noted that some of the increase can be attributed to higher fuel costs.

Ron Tingley motioned to accept the out of state travel proposal as presented. Rick Falconer seconded the motion. The motion carried.

Agenda Item #6 – Fund Conditions for the Seed Services and Seed Lab

Heaton directed the Board's attention to the pale green handout that presented the fund condition for the Seed Lab Ag. Fund (20.30.16). He noted that this fund was previously identified as becoming depleted in the very near future. He reminded the Board that this is the fund that they met with Secretary Kawamura to discuss last spring.

He noted that under Expenditures and on the line Seed Lab Ag Fund, the amount indicated is \$0 (zero) for the year 2005/06 and beyond. This reflects the Board's approval of option three that was presented at the last meeting. This option directed that no more expenditures be charged to the Seed Lab Ag Fund. Option three also provided that funds in the Seed Lab Ag Fund should only be used for bond debt repayment. The hope is that the revenue received by the lab for service samples will be adequate to cover the bond debt. Expenses that were previously charged to the Seed Lab Ag Fund will now be included as expenditures in the Seed Lab General Fund (20.30.15). Heaton noted that the values on the Seed Lab Ag Fund handout reflect option three and show that the cash balance stabilizes at approximately \$80,000 while annual revenue is approximately \$30,000 and annual expenditures are approximately \$30,000 for the bond debt repayment.

Ron Tingley recalled that there was discussion at the meeting with the Secretary about whether the amount of money required for bond debt repayment might be reduced in the future.

Heaton explained that the bond debt fluctuates in a manner like an individual's mortgage might fluctuate because of interest rates. He clarified that Mr. Tingley was perhaps speaking of increases in Pro Rata which are calculated by using factors that are considered over years. Even though the present administration has implemented changes, the factors that caused the increase in Pro Rata were already in the equation and it will take a few years before the Program might see some decreases.

Larry Hirahara asked when the bond debt would be finished.

Heaton replied that it would take eight more years to pay off the bond debt.

Heaton then directed the Board's attention to the multi-page, beige handout for the Seed Services Fund Condition. He explained that each page reflects a different scenario that is dependent on which funding requests the Board decides to approve at the present meeting. On page one, he noted that the end-of-the-year (EOY) estimate for 2005/06 showed a beginning cash balance of \$513,113. The estimates of revenue for assessments and license fees were included, as well as an estimate for revenue from interest of an interfund loan. Heaton explained that the Seed Services Program received the interest from the interfund loan because the General Fund borrowed money from the department-wide Ag Fund. The \$39,652 reflects the amount of money the Seed Services Program received in interest from that borrowing arrangement. Total revenue, therefore, was reported to be \$1,264,013. He noted that this was close to the projection of \$1.2 million made at the start of the fiscal year. When the reimbursement from the gas tax is added to the beginning cash balance and the total revenue, the total resources available for the Seed Service Program is \$1,798,065.

For expenditures, the EOY projection is \$1,198,130. When expenditures are subtracted from Total Resources available, the new cash balance for the Seed Services Program is \$599,935 or approximately \$600,000.

Heaton then directed the Boards attention to the notes of interest at the bottom of the handout. He explained that the Reserve Calculation shows the amount of money the Department would like the Seed Services Program to maintain in reserve. This amount is approximately 1/4th the total budget expenditures. Since the reserve calculation is \$299,533 the Program's cash balance of nearly \$600,000 is well above what is required for reserve.

Ron Tingley asked why payments for the UCD Biotechnology Center are not shown under the columns 2003/04 and 2004/05.

Heaton explained that the Seed Services Program did make payments in previous years but that for discussion purposes and future planning, he decided to break out the payment for the UCD Biotechnology Center from the expenditures category and list it on a separate line in the present year and in future years. He further explained that by breaking it out on its own line, it is easier to follow proposed changes to the funding of the UCD Seed Biotechnology Center that he will present on subsequent pages.

Heaton added that the summary of the Fund Condition for the Seed Services Program also contains estimates of projected expenditures to the Seed Laboratory.

Marc Meyer noted the Program received interest from an interfund loan. He inquired if the principal had been paid back.

Heaton stated that he believed the principal was paid back because he was told that the interest is a one time payment as part of final reconciliation for the loan arrangement.

Moving to the projections for the 2006/07 fiscal year, Heaton noted that expenditures are expected to be about \$1.3 million and total resources should be around \$1.8 million.

The number of licensees responsible for providing the revenue has remained around 400. Heaton noted that about 20 new labelers or dealers were registered via enforcement efforts on seed shipments arriving at the border from unregistered seed labelers. He also noted that the money collected from penalties was higher than previous years, even though the renewal notices were sent out before June 30th.

Chairman Scarlett asked how unauthorized sellers are caught.

Heaton explained that Border Inspectors have a list of all firms authorized to sell seed in California. If seed is found in a shipment and the shipper or recipient is not on the list, the Border Inspectors will fax the shipment information or a copy of a 008 Inspector's Report to Heaton and the receiving county. Upon learning of the situation, Heaton contacts the violating parties and informs them of the requirement to obtain authorization to sell agricultural or vegetable seed in California. He sends them the necessary applications or forms, and explains that non-compliance may result in a "Stop-Sale" order on their seed shipments. He also noted that during the normal process of simply

evaluating labels for seed law compliance, County Inspectors occasionally find unregistered labelers, in which case the same enforcement scenario as described above occurs.

Border Inspectors and County Inspectors use the list that is posted monthly on the Seed Services Web Page. It provides the name of all of the firms authorized to sell and their Doing-Business-As (DBA) names. Heaton noted that since he added the DBA names to the list, the County Inspectors and Border Inspectors are much more confident in the list and are more likely to take action when they find an unauthorized labeler.

Heaton stated that the handout also shows what will happen if the Board holds the assessment rate at thirty-two cents per \$100 value of seed sold. He noted that there should be adequate funds for projected years if the reported value of seed sold continues to follow recent trends.

Heaton requested that further discussion of other possible scenarios for the Seed Services Fund Condition and projections – i.e. subsequent pages of the beige handout – be deferred until after Dr. Bradford's report. Chairman Scarlett agreed.

Agenda Item #7 – Seed Laboratory Proposed Budget

Heaton then directed the Board's attention to the lime-green handout that presented the Seed Laboratory's (20.30.15) proposed budget. He stated that the Board has historically approved this budget at their meetings, however 20.30.15 is a General Fund Program and it is not necessary for the Board to take action. Heaton therefore requested that any motions concerning the Seed Laboratory Budget be presented as recommendations to the Department.

Under column 2005/2006 he reported that the projected cost for Total Personal Services was \$541,438 and for Operating Expenses was \$206,297. He noted that the Board previously agreed to pay 50% of the lab's projected expenditures, which was expected to be \$347,003. The actual value for 50% of expenditures is projected to be \$373,868, which is \$26,869 more than the Board approved.

Heaton explained that the reason for this excess expenditure by the Seed Lab General Fund is because expenses for the Seed Lab Ag Fund (20.30.16) have been shifted over to the Seed Lab General Fund (20.30.15). He reminded the Board that there was a previous agreement that 20.30.15 – the Seed Lab General Fund - would pick-up \$60,000 of expenses previously charged to 20.30.16 – the Seed Lab Ag Fund. Since the Board only covers 50% of those expenditures, it should be no surprise that the previous allocation is going to fall short by about \$30,000. Heaton noted that this shortfall is pretty close to the \$26,869 overrun in expenditures that he is projecting.

For fiscal year 2006/2007, the Seed Services Program is recommending a total budget for the Seed Laboratory General Fund (20.30.16) of \$762,691. This means the cost for 50%

of expenditures that the Board is asked to cover is \$381,345. Projecting for the 2007/2008 fiscal year increases that 50% expenditure value to \$392,786.

Heaton diverged to explain why he provided projections for 2007/2008. He directed the Board's attention to a white handout that displayed the word MEMORANDUM and was dated May 5, 2006. He summarized the memorandum by reading key parts. "The Office of Budget and Program Analysis (OBPA) will no longer initiate a CA (continuously appropriated) budget development process for the upcoming fiscal year (2006-07) as this budget has already been approved by the Secretary and the Legislature. OBPA will incorporate the future year (2007-08) budget development of CA (continuously appropriated) programs with that of the Budget Act programs. OBPA will disseminate a Budget Letter in August to begin the 2007-08 CA budget preparation process.... proposals will be forwarded for the Secretary's approval sometime in October." Heaton explained that this means the Board must approve a recommendation for the 2007-08 budget. He further stated that because of the memorandum, he included projections for 2007-2008 on the various budget and fund condition handouts.

[Note: CA or continuously appropriated programs are programs that obtain their funding each year from sources other than the state's general fund. Industry funded programs such as the Seed Services Program, are CA funded programs.]

Dr. Kodira explained that the new budget process has come about because of laws passed last year. He added that previously the Secretary had the authority to hire people for continuously appropriated programs however that authority has now been removed. This means that if a CA Program wishes to hire a new state employee, approval will have to be obtained from the Department of Finance.

Heaton added that if the Board made a decision to expand the Seed Services Program, perhaps to cover some new or additional responsibilities, CDFA would have to request a budget change proposal to get approval to hire those people.

Dr. Kodira stated that the new procedures are meant to put the CA programs in line with the same process used by General Fund programs.

Rick Falconer asked why the cost for temporary salaries projected for 2005-2006 was almost three times higher than the previous year.

Dr. Kodira explained that some of the increase in temporary help is coming from the transfer of charges from the Seed Laboratory Ag Fund, as was discussed previously. He noted that those charges are not likely to be recovered because the seed lab receives a lot of indirect help that does not show up as costs to the lab. For example they have access to administrative secretaries and various other resources, such as lab equipment of other projects.

Heaton noted that when one compares the 50% amount allocated last year and the 50% amount recommended for 2006-2007, there is a difference of about \$35,000 more for the

Seed Lab Gen Fund in 2006-2007. He reminded the Board that this is in line with the previously agreed strategy to stop charging expenditures to the Seed Lab Ag Fund (except for the bond debt repayment) and to transfer those costs to the Seed Lab Gen Fund. Those transferred expenditures were about \$60,000, so the proposed \$35,000 increase for funding to the Seed Lab Gen Fund is about one-half of those expenditures.

Because of the new budget procedures, Heaton also reviewed the last column which showed the proposed budget for the Seed Lab Gen Fund in 2007-2008. He explained that the figures presented represented about a 3% adjustment over the figures used in the proposed budget of 2006-2007. He noted that any motions for recommendations should address both fiscal years.

Marc Meyer made a motion that the Board recommends approval of the budget proposed for the Seed Laboratory General Fund for 2006-07. George Hansen seconded the motion. The motion carried.

Larry Hirahara made a motion that the Board recommends approval of the budget proposed for the Seed Laboratory General Fund for 2007-08. Ron Tingley seconded the motion. The motion carried.

Agenda Item #8 – Seed Laboratory Level of Funding (Memorandum of Understanding)

Heaton directed the Board's attention to the purple handout which provided a breakdown of the amount that the Seed Services Program is proposing to fund for the Seed Laboratory. He explained that since the Board has just approved a recommendation for the proposed budget of the Seed Lab, he is seeking a motion from the Board to recommend that the Seed Services Program fund the Seed Laboratory at the levels indicated.

He added that although the Board did just approve the proposed Seed Lab budget, the amount listed in that budget is presented in the Memorandum of Understanding (MOU), which is a separate process than recommending a budget for the lab. Heaton said he formally needs a motion and Board approval for the MOU before he can execute the MOU with the Lab.

George Hansen motioned that the Board recommend approval of the level of funding for the Memorandum of Understanding between Seed Services and the Seed Laboratory; more specifically, \$381,346 in 2006-2007 and \$392,786 in 2007-2008. Gabe Patin seconded the motion. The motion carried.

Agenda Item #9 – UCD Seed Biotechnology Center (SBC) Report

Dr. Bradford welcomed the Board to the Seed Biotechnology Facility and briefly explained that besides the administrative staff of the SBC, there are five research programs and the Public Intellectual Property Group utilizing space in the building. In addition, there is a Nutritional Genomics Group also present.

Dr. Bradford reported that recent activities include a cotton pollination study that provided data to support changes in certification standards approved by the California Crop Improvement Association (CCIA). A new study for pollen flow of Pima Cotton has also been recently funded by the CCIA. He noted that Dr. Larry Teuber and Dr. Allen Van Deynze have received continued funding from the USDA for pollen flow studies that involve fields of about 40 acres that are scattered around plantings of Roundup Ready Alfalfa. The overall goal of both studies is to develop information for coexistence, which will allow new markets to develop while protecting previous markets.

One new research activity at the SBC utilizes a new machine that measures the respiration of individual seeds. Dr. Bradford presented a slide that showed a large degree of variation for the respiration of individual lettuce seeds. These results have generated new questions about why seeds that demonstrate similar ability to germinate, show such divergent respiration patterns. The American Seed Trade Association (ASTA) has agreed to provide the SBC funding to continue research with this new instrument.

Dr. Bradford noted that Dr. Van Deynze has been very successful at generating extramural grants. He projected their grant funding to be slightly more than \$3 million.

He stated that the SBC has also been very active in a recent regulatory initiative for specialty crops. There has been a slight lull in those activities, however, because the Special Crops Research Institute (SCRI) is searching for a consultant to develop a business plan for a new program that would assist the regulatory process of biotech specialty crops. The concept was supported by the ASTA Board in January and the CSA Board in April. The deadline for consultant applications has almost arrived. The SCRI received about \$39,000 to contribute toward that initiative, however Dr. Bradford believes it will take some additional funding.

On the international level, Dr. Van Deynze has been involved in the group called Public Research and Regulations Foundation. He has attempted to provide input from public researchers to the discussions about the Cartagena Protocol. Last November he participated in a meeting in Spain which generated ideas for the Protocol. In March he attended a meeting in Brazil for a meeting of the Parties. Since the U.S. has not signed the Accord, we are not a Party invited to the table. However the Public Research and Regulations Foundation has been able to get a seat at the table and has been remarkably effective at getting less severe measures that do not restrict research and trade as much as originally proposed. The last wording that went through did preserve the opportunity to continue work on things like GURTS (Genetic Use Restricted Technology) which were under threat of being completely banned.

Another SBC activity has been a strong effort to provide Extension Bulletins, particularly on the whole issue of coexistence. Dr. Allison Van Eenennaam, a UCD Extension Specialist at UCD, and Dr. Peggy Lemaux initiated a project to develop a whole series of fact sheets, or peer-reviewed information sheets, on various aspects of coexistence. Dr. Bradford assisted them by writing and providing a fact sheet. Additionally, Drs. Van

Eenennaam and Lemaux are making an informative video on coexistence. Dr. Bradford has also contributed information about tracking adventitious presence in plants for publications by the Council for Agricultural Science and Technology. Overall, he explained, about twelve of sixteen proposed bulletins that cover a range of issues are completed.

In February, the SBC offered a course called "Breeding with Molecular Markers." The course had approximately seventy participants and was offered through a new arrangement with University Extension. The new arrangement made the course more financially beneficial for the SBC to offer.

The Plant Breeding Academy has received about fifteen applicants. There is room for twenty-five students, but fifteen is enough to move ahead at the break-even level. Presently the activity is to hire an academic coordinator to work with the instructors and develop a syllabus as well as other duties. Instruction will start in September 2006.

Ron Tingley asked if the students were from California or from other states and countries as well.

Dr. Bradford stated that there has been domestic interest, as well as international interest. He was a bit surprised by the international interest because the students will have to travel six times over the two years of the coursework. He added that some students are coming from bigger companies but there has also been strong interest from smaller companies. While some of the students have been trained as plant breeders, others are doing the plant breeding but were not initially trained in the discipline.

Dr. Van Deynze added that about one-half of the students are from California.

Dr Bradford presented a slide of the SBC Budget and projections for future years. Seed Advisory Board members were provided an accompanying white handout titled Budget/Actual 2003-2009 and dated May 12, 2006. He noted that at the last Board meeting he expressed concern about the SBC's budget projections. He reported that there have been many new developments since the November 2005 meeting.

Dr. Van Deynze has been very successful in procuring grants. Some of the grants allow him to charge part of his salary toward the grant. Currently he is able to cover about 30% of his salary with grant funding. In addition, the SBC has become more fully incorporated into the Plant Sciences Department. As an official research and information center for the Department, more of the administrative costs are subsidized by the Department. For example, one-fourth of Sue Webster's salary is now covered by the Department. The SBC has also gained access to the department's graphic artist and meeting coordinator. The new arrangement with University Extension is also providing more revenue from courses offered by the SBC. All of these factors have changed the financial situation of the SBC and enable it to maintain its current level of activities for the next year.

Dr. Bradford noted however, that many of these resources fluctuate and make it difficult to project beyond the immediate future. Because of this variability Dr. Bradford suggested that the Board may want to consider its level of funding for the SBC every year, instead of every three years.

He noted that a recent survey conducted by the SBC indicated that the industry is supportive of the expansion of SBC activities. Currently there is an effort by SBC to raise the necessary funds to hire an Executive Director that will be in charge of developing the expansion of the SBC. Dr. Bradford estimated that it will take approximately \$250,000 per year, for three years or about \$750,000, to get the position up and running. Through various efforts the SBC has received commitments for about \$500,000. Although this is not quite the target amount, it is enough to initiate a search for a candidate.

Dr. Bradford expressed hope that after his visit to the Board of the California Seed Association, they will consider opportunities to support this growth initiative at the SBC. He briefly reviewed the budget handout for the SBC and noted that without additional funding, the expenses of the SBC will quickly exceed the net income.

Dr. Bradford summarized that the SBC represents a partnership between UC and the Seed Industry since the beginning of SBC. UC has stepped up with direct contributions from the Dean to the growth fund, and additional indirect contributions through the new departmental affiliation. Additionally some individual seed companies have made generous contributions. Bradford noted that core funding from the Seed Advisory Board is what makes the SBC possible, and he requested that the Board consider providing funding for the SBC's growth initiative.

Ron Tingley asked if the SBC is currently searching for an Executive Director.

Dr. Bradford explained that a job description has been written and is circulating within the University. It appears that the position will fall more in the management category rather than an academic category. Once the position description is finalized, it can be advertised. The hope is that by fall, UC and SBC will have initiated the search for an Executive Director.

Chairman Scarlett asked if Dr. Bradford would remain in his capacity at SBC if an Executive Directory was hired.

Dr. Bradford explained that the structure is still evolving but it appears that he would be the Academic Director and there would be a direct line to the Dean. In addition there would be an Executive Director and a Research Director and appropriate structure under each position, including an Academic Coordinator and Communications Manager. This arrangement would allow Dr. Van Deynze and Dr. Bradford to focus more on the research and science, as well as some regulatory initiatives. While they would still be participatory, they anticipate that they would not have to spend as much time searching for funds.

Chairman Scarlett asked if Dr. Bradford considered cutting out the position of Communications Manager, since it appears there isn't quite enough money.

Dr. Bradford replied that they have considered modifying the structure, such as making it just a fifty-percent position. He explained that although it appears the SBC is not close to having the funds, he believes that in the University system it is possible to grow the SBC into a program that has some very well funded programs. He explained that part of the reason for placing the Executive Director in the management series was to provide a pay scale that is more attractive than the academic pay scale. This way the program could be sure to attract a very qualified candidate.

George Hansen asked if the Executive Director's salary would be tied to the amount of money he or she raises.

Dr. Bradford replied that he believed it is not, however he noted that successful performance on the job would allow a person to grow the program and to move up in classification.

Marc Meyer asked if the Executive Director would be responsible for expanding the number of contracts the SBC receives.

Dr. Bradford explained that it will be a team effort to expand the number of contracts. He noted that the Executive Director may not be as heavily versed in science as they are in communication. The hope is that the Executive Director's communication skills will enable him or her to organize funding from Foundations and perhaps even create an endowment that generates the funds, which could eventually reduce the SBC's dependency on contributions from the Seed Advisory Board.

Chairman Scarlett asked what happens if the income generated by the Executive Director is less than his or her expenses. He wondered if the University would cover that loss.

Dr. Bradford explained that he didn't believe the University would pick up that expense. He noted that expense versus ability to bring in funds will obviously be a consideration during the recruiting process. If the Committee finds a real great candidate but hiring them would blow the budget, the Committee would have to look long and hard at the candidate's potential to bring in funds.

Chairman Scarlett asked how long the University would allow a situation of expenses greater than income to continue.

Dr. Bradford explained that the University is really not the issue as much as the fact that the funding for the Executive Director position is coming from a separate fund. The fund was created by the Dean's contribution and pledge contributions. If that money runs out there is no backstop from the University.

Chairman Scarlett asked Board member Rick Falconer to report the level of funding that the California Seed Association (CSA) believes the UCD Seed Biotechnology Center should receive.

Agenda Item #10 - Level of Funding for the UCD Seed Biotechnology Center.

Rick Falconer reported that the Executive Committee of CSA and the general membership discussed the level of funding for the UCD Seed Biotechnology Center. He reported that a motion was passed at the annual meeting in Hawaii to provide an additional \$50,000 per year from seed assessments to the UCD SBC for a three year period. He stated that the CSA Board agreed the money should be used for the administration and/or growth initiative of the UCD SBC.

Heaton then reviewed how an additional expenditure of \$50,000 would affect the budget for the Seed Services Program. He referenced the beige handout which included several scenarios related to the level of funding for the UCD SBC. The handouts illustrated that even with a \$50,000 increase in expenditures to the Seed Biotechnology Center, the Service Program will have adequate cash reserves. Heaton reviewed scenario #4 which illustrated a \$50,000 increase in funding for 2005-06 and then a \$200,000 level of funding for subsequent years. Dr. Bradford commented that the Seed Biotechnology Center would probably not be able to use the additional \$50,000 offered as an amendment to the 2005-06 contract. He stated that the SBC was more interested in increasing the funding to the \$200,000 level for the next 3-year contract cycle.

Heaton explained that it was highly unlikely anyway, that he would be able to amend the current contract to provide an additional \$50,000 before July 1. He stated that an amendment of that amount would require review by the Contracts Division and perhaps the Department of General Services, which would take too long.

Chairman Scarlett directed the Board's attention to scenario three, which illustrated the impact on the Seed Services Budget when the level of funding in years subsequent to 2005-2006 is set at \$200,000 per year for the UCD SBC.

Gabe Patin asked Dr. Bradford if the contract could be for less than three years. Bradford explained that three years of funding is necessary if the SBC is going to be successful in recruiting a strong director. He added that a strong candidate may be very hesitant to accept the position without the funding.

Meyer asked if perhaps the contract could be more open-ended by using some sort of sliding scale of funding based on performance.

Heaton replied that such a scenario would be possible but that it adds additional requirements for more frequent reporting by the SBC and performance measurement by CDFA.

Falconer stated that the CSA Board intended the SBC to have flexibility to spend the money on administration or the growth initiative.

Larry Hirahara asked if the present proposal would be for the initiation of a new three-year contract.

Dr. Bradford noted that the Seed Advisory Board approved a motion at the November 2005 meeting to make the commitment for a new three-year contract starting July 1, 2006. He added that the Board tabled the discussion of committing the additional \$50,000 until after the CSA annual meeting.

Gabe Patin noted that it appears the Seed Services Program could provide the additional \$50,000 per year to the SBC while maintaining the \$0.32 assessment rate. He asked Heaton if he has received any negative comments about the \$0.32 assessment rate. Heaton replied "No."

Larry Hirahara noted that a three year commitment will provide stability, but he wanted to note that he felt the goal of initially funding the SBC was to facilitate their development toward becoming a self-funding organization or entity.

Chairman Scarlett noted that during the November meeting Bill Van Skike's recollection of the arrangement was that the Seed Advisory Board agreed to fund the Seed Biotechnology Center. He also noted however, that Heaton was unable to definitively find anything in the previous minutes that indicated funding would be permanent.

George Hansen noted that his recollection of discussions at the CSA were that there would be a three year time limit.

Marc Meyer added that when the topic of funding was discussed, the Seed Biotechnology Center was only a concept and the three year funding was the motivation for completion of the initial concept. He urged the exploration of developing more funding from grants and contracts.

Dr. Bradford agreed and noted that the SBC needs more personnel to pursue those grants and contracts. He also added that he never said his expectation was that the funding by the Board would end. His expectation was that there would be on-going partnership and funding would at least continue at a minimal level to fund a couple of people in the program. He stated that he understands the Board's expectation that the funding might wind down over time, but his view has been that two or three cents per one hundred dollars of sales is not an unreasonable level of funding for the seed industry to contribute to the activities at the SBC on an on-going basis. He further noted that many Boards fund research endeavors and have the expectation that they will continue to fund those efforts continually. Finally he noted that it is very important that funding be broad based if the SBC is to maintain its credibility.

Dr. Van Deynze added that stable funding is very important to sustain an effective research program. He stated that it is not possible to replace his salary by grants alone. Thirty percent is probably the highest proportion of his salary that he can charge to grants.

Dr. Bradford noted that other research centers in the UC system are able to sustain their efforts by receiving funds from lists of large corporations. He noted that those programs do not have Boards or assessments, but rather the corporations write checks to provide a baseline for infrastructure support so the program can then pursue grants and other sources of funds to conduct research.

John Heaton asked Dr. Bradford if he didn't previously state that hiring an Executive Director for the SBC would probably be the best shot for the program and Board to get some sort of endowment in place that would perhaps allow the Board to lower the level of funding and potentially lower assessment rates.

Dr. Bradford agreed and offered that the Rice Board actually funded an endowment to create a chaired position on campus. Over the course of five years they set aside an additional amount to pay into a fund that was able to establish an endowment. He explained that once an endowed chair is established, the university provides the position with a salary. The endowment income is then used to support the research. He suggested that this is a possible way that the Board could sort of pay its way out of funding the SBC, if they so chose.

Gabe Patin noted that the \$150,000 originally provided by the Board to SBC does not buy as much today. He suggested that the Board should also consider the additional \$50,000 as an offset to the higher costs of simply doing business today.

Ron Tingley made a motion that the level of funding for the UCD Seed Biotechnology Center be increased to \$200,000 for the next three years, commencing July 1, 2006.

Gabe Patin seconded the motion. The motion carried unanimously.

Agenda Item #11 - Funding for Seed Sampler Training of County Inspectors by USDA

John Heaton explained that in April, he was contacted by Dr. Richard Payne of the USDA Seed Testing and Regulatory Branch about organizing a seed sampler training session for county agricultural inspectors. Dr. Payne stated that he wanted to travel to California in the fall to train the county inspectors about the proper methods to use when sampling seed that is sent to the Seed Regulatory and Testing Branch. Certain countries are requiring U.S. seed exporters to have the Federal seed lab analyze and issue a USDA Seed Analysis Certificate for seed destined to that country. Heaton stated that he believed the upcoming training is a first step toward implementing a system of USA Accredited Seed Samplers, which may eventually be made available to seed samplers at private companies.

In order to accommodate the large number of county inspectors in California, Heaton has scheduled two training sessions: one training in Oxnard, or Southern California, on September 18-19, 2006 and another training in Woodland, or Northern California, on September 21-22, 2006.

While Heaton emphasized the importance of county inspectors attending the training, he noted that counties are not likely to send inspectors to the remote training locations unless a mechanism can be provided to offset their travel expenses. He explained that the money received from the seed subvention contracts is sometimes barely enough, and in many cases not adequate, to cover the cost of a two day trip to training.

Since this financial obstacle was a concern, Heaton met with the CDFA Contracts Division and asked if an additional \$5,000 to \$10,000 line item could be approved by the Board and given to the counties for training. The reply was that there is really not an easy mechanism for the state to give money to county employees to reimburse them for their travel. Consequently Heaton proposed modifying the seed subvention contracts to include a clause that clearly states a portion of the \$120,000 normally approved for county seed subvention contracts will be held back to reimburse counties that participate in training. This idea seemed acceptable to the Contracts Division.

Heaton believes that this strategy will work since the Seed Services Program typically does not contract the entire \$120,000 to the counties. Instead, a small portion of the original \$120,000 is held back to serve as a kitty of money that can be allocated to counties that do extra work. Heaton believes that the money in the kitty will be adequate to cover the reimbursement costs and thereby remove the financial obstacle for counties to attend.

Guest Bob Stewart expressed concern that county employees that attend the training, may not necessarily remain in their present inspector positions in the near future.

Heaton agreed and explained that he has stressed to the County Agricultural Commissioners that they should try to send an employee that is likely to stay employed at the county level for some time. He hoped that this initial training will generate a core group of people that can get the whole system up and running. He speculated that perhaps in the future additional training sessions may be provided by various entities, including CDFA officials or even accredited laboratory employees.

Agenda Item #12 – Seed Services Proposed Budget

Heaton directed the Board's attention to the bright yellow handout. He noted that the handout included different scenarios based on the Board desire to fund the UCD SBC. Since the Board approved the recommendation to fund the UCD SBC at the level of \$200,000 per year for the next three years, Heaton directed the Board's attention to the third page of the handout or Scenario 3.

The end-of-the-year (EOY) projection for fiscal year 2005-2006 showed the total for Personnel Services was significantly higher than what was approved. He explained that some of the extra cost was due to an erroneous charge for an employee that is actually in the Nursery Services Program. He is in the process of reversing that charge and he offered that coding mistakes sometimes happen in large organizations. He noted other expenditures such as the \$120,000 spent for Seed Subvention contracts, \$347,003 spent for the Seed Laboratory General Fund and \$150,000 for the UCD SBC. The total budget expenditures are anticipated to be \$1,231,865, which is about \$25,000 more than what was approved last year by the Board.

The \$25,000 of additional expense is a reflection of the charges that were shifted from the Seed Laboratory Ag. Fund to the Seed Laboratory General Fund. Since the Seed Services Program picks up half of the expenditures for Seed Laboratory General Fund, half of the \$60,000 shifted over would be approximately \$30,000 or in this case, about \$25,000.

Heaton used a 2% increase on the EOY projections to propose a budget of \$1,367,461 for 2006-2007. This amount includes the new funding level of \$200,000 for the UCD SBC and funding the Seed Laboratory at the level of \$381,346 as discussed earlier.

For fiscal year 2007-2008, Heaton used a 3% adjustment to arrive at a proposed budget of \$1,400,028. He noted that the proposed budgets are well within the projections presented in earlier discussion of the Seed Services Fund Condition.

Deborah Meyer speculated that perhaps the time is coming when the counties express that \$120,000 is not adequate to cover their costs.

Heaton noted that he has received feedback of that nature from some of the counties. He shared that a recent seed complaint in Sonoma County required considerable assistance from that county. At the end of the dispute resolution process, the Seed Services received a bill from the county for about \$3,500. Heaton explained to the county that the seed subvention contract is not intended to offset the entire cost of seed law enforcement but is only intended to offset about one-third of the costs. In addition, since the complaint was in fiscal year 2005-2006, the county should not expect payment until the next fiscal year.

Since Heaton believes that counties have legitimate concerns about costs for seed law enforcement, he is determined to find a way to cover one-third of their costs when they participate in seed complaints and the alternative resolution process. One idea he plans to pursue is to add measures in the seed subvention contracts that allow counties to report five extra labels evaluated when the Agricultural Commissioner, or other county officials, participate on Investigative Committees for seed complaints. Heaton stated that in previous years counties received about \$300 per extra seed sample submitted to the lab. He believes that with the easier task of evaluating labels, counties will report more extra labels evaluated and therefore the amount per extra label will be considerably less than \$300. If five extra labels are reported when a Commissioner attends an Investigative Committee meeting, those extra label evaluations should generate several extra hundred dollars for the county. Heaton reiterated that his intention is to develop a mechanism to

compensate counties that incur additional expense when Agricultural Commissioners sit on Investigative Committees. He added that it is not easy to assemble Investigative Committees for seed complaints. His goal is to remove the financial obstacle for county Commissioners to participate.

Heaton reported that he has received mixed feedback from counties about the new directive to only evaluate seed labels and to stop pulling regulatory samples. Some counties acknowledged that it takes less time to evaluate labels instead of pulling samples. Other counties communicated that they miss the training for pulling regulatory samples because they use the training to review how to pull service samples.

Heaton stated that he wasn't sure if it was necessary to augment the \$120,000 for seed subvention to counties at this time, but he proposed to the Board that an increase to the \$120,000 is something they might want to consider if there is more feedback of that nature from the counties.

Gabe Patin asked if any members of the Board participated in the investigation.

Heaton replied "No." He elaborated on the seed complaint, however, stating that it involved an allegation of weed seed contamination in the planting seed. The extent of the alleged contamination was such that the market value of the oat hay crop was significantly reduced. His investigation involved the sampling of seed in left-over inventory at two different warehouses. One investigative sample was pulled by a county inspector and one sample was pulled by a CDFA Associate Biologist. The seed lab performed an analysis of the samples and did not find a single weed seed of the type named in the complaint. Since the infestation was so bad, Heaton suspected that the weed seeds were already in the soil. He was able to sample the soil after the harvest but before the soil surface was disked. The soil samples were processed by a CDFA employee at a soil laboratory on the UCD campus. The processing involved washing out the small clay-like particles until the sample was reduced to a coin envelope of soil particles and organic matter. After the samples were dried and sieved, a CDFA Seed Botanist identified all of the seeds in each envelope. Of the eight soil samples that were processed, five contained the weed seed named in the complaint.

In addition, CDFA staff performed a literature search and learned that in the late 1960s, some hay bails in Sonoma County were composed of as much as 60% vegetative matter from the weed named in the complaint.

The labeler's production records, the laboratory analyses of seed and soil samples, the historical production records of the land, the dormant nature of the weed seed, and calculations of the number of weed seeds necessary to provide a 1% contamination, were all considered by the Investigative Committee. In the Investigative Committee's report, they stated that based on the evidence, the Committee did not believe the presence of the weed seed was a result of contamination in the planting seed.

Heaton noted the important role that county staff played in the seed complaint process and investigation. He stressed how important it is to have county staff trained to collect seed samples in case they need to assist CDFA in a seed complaint investigation. He explained that sometimes it is much more practical to use a county inspector to pull an investigative seed sample, rather than having a CDFA Biologist drive several hours to a distant county just to pull one seed sample. Heaton expressed hope that the Federal Seed Sampler training in the fall will serve as a refresher course for many of the county inspectors.

Chairman Scarlett asked if there was any more discussion about the Seed Service proposed budget.

Larry Hirahara motioned that the Board approve the budget as presented by Heaton and as proposed in Scenario #3 of the yellow handout. Ron Tingley seconded the motion. The motion was unanimously approved.

Agenda Item #13 – Recommendation of the Assessment Rate

Heaton explained that he needed the Board to formally recommend an assessment rate so that he can obtain approval from the Secretary. Once the Secretary sets the rate, he will draft a letter to seed registrants informing them of the assessment rate at the time they receive their renewal notices. He noted that the present rate of thirty-two cents per one hundred dollars value of agricultural and vegetable seed sold is adequate to support the budget just approved by the Board.

Gabe Patin motioned that the Board maintain the thirty-two cent assessment. The motion was seconded by George Hansen. Motion carried.

Agenda Item #14 – Possible Recommendation to the Secretary about county ordinances

Betsy Peterson of the California Seed Association asked Chairman Scarlett if this item could be tabled until the next Board meeting. She explained that the persons that would present this item were not able to attend the present meeting.

Chairman Scarlett tabled the item.

Agenda Item #15 – Status of Arbitration Regulations

Betsy Peterson directed the Board's attention to the canary yellow handout titled Draft (05-16-06). Peterson reported that three recommendations were made at the CSA meeting held in April. The first recommendation was to replace the word "hearing" with "arbitration" and the words "Hearing Officer" with "Arbitrator." This was necessary because "hearing" denotes various legal procedures and there may be some issues associated with that particular terminology. The second recommendation was to modify section 3917 (2) (e) to allow a wider pool of candidates to be appointed to Seed Dispute Councils. Originally the draft only included UC Davis as the university to provide

candidates. The new draft includes Deans of the schools of agriculture of the various state universities and the University of California. The third recommendation was toward the top of page thirteen, item f, at the end of the second sentence, where it stated “except for the findings of fact and decision.” Upon further review by the CSA Board, it was determined that this new language was not necessary because it pertains to conciliation or mediation and not to arbitration.

Peterson stated that she discussed the lack of need for this change with Heaton and then obtained clarification from the CSA legal counsel. She explained that when a complaint is filed, an investigation is initiated and the process toward arbitration is started. During the period of investigation, the parties may step off the path toward arbitration by attempting to resolve their dispute through conciliation or mediation. During discussions, evidence may be offered by the complainant or respondent that may make the other party want to conciliate or mediate the complaint. Alternatively, the evidence may make the parties not want to conciliate or mediate, which would put them back on the original track towards arbitration. Any additional information that was used during the conciliation or mediation would be held confidential. However, information obtained during the original arbitration investigation can still be used in the arbitration. It is not necessary therefore to change the proposed regulations with this third recommendation because the investigative facts and findings will not be lost or disallowed for the arbitration.

Heaton stated that he understands the information developed from the investigation is separate and outside of the conciliation or mediation, and therefore would still be viable for the arbitration. However, he was not sure the language would sufficiently inform complainants or respondents that information obtained during the course of the CDFA investigation will be available to the disputing parties during arbitration. He suggested that some basic wording that clearly states the information obtained during the CDFA investigation will be available to the participating parties would be useful.

Peterson agreed and reiterated that since a complaint starts out on a track towards arbitration, the information from that investigation toward that arbitration is usable, even if the parties step off the path and attempt conciliation and mediation. She clarified that many times more information becomes available during conciliation or mediation. That information is not eligible as evidence to the arbitrator.

Marc Meyer asked if this is normal and customary in other arbitration laws.

Peterson replied “Yes.”

Heaton explained that he understood the language in question to mean that once arbitration was done, especially since it is not a binding arbitration, the information revealed could not be used in a possible subsequent lawsuit. He was not sure of this interpretation.

Peterson explained that the information in the arbitration and investigation could be used in a lawsuit, but information that came about only during the conciliation or mediation

could not be used. She added that perhaps adding the following sentence to the end of section F on page fourteen of the handout would be beneficial, but would still need to be reviewed by legal counsel.

“However any documents and other evidence or information developed for the parties for arbitration is not rendered inadmissible by this section, even if used in conciliation or mediation.”

Peterson explained that this sentence clarifies that anything developed by the investigation during the arbitration track, is admissible. Information obtained during conciliation or mediation however, would not be admissible.

Heaton noted that under these regulations, it would be very important for participants to keep very accurate records of what was disclosed only during conciliation or mediation and then disclose that to their attorney if the complaint ultimately becomes a lawsuit.

Peterson clarified that as the regulations are presently written, the information obtained during conciliation or mediation would not be admissible. She stated that if the Board is comfortable with that, perhaps it is not necessary to include the additional sentence as previously suggested.

Peterson stated that the CSA recommendation therefore is to replace the terminology “hearing” and “hearing officer,” to add more schools to section 3917, and to not add the additional language into section F on page fourteen. She explained that the next step is to have the Board make a recommendation for the Seed Services Program to present the document to CDFA legal counsel for review and comment.

Marc Meyer made a motion that the document be presented to CDFA legal counsel for review and comment.

Rick Falconer seconded the motion. The motion carried.

Agenda Item #16 – Legislative Report

Betsy Peterson directed the Board’s attention to pages four and five or sections nine through eleven of the white handout titled AB 1598 Assembly Bill – Amended. She asked Heaton to elaborate on item (d) in section 10.

Heaton explained that the changes proposed were in response to county enforcement actions for labeling requirements of packet seeds. He stated that one part of the law requires packet seed to have a “sell by” statement and another part of the law requires all nonfarm seed to have a “Packed for (year) season”. Some county inspectors were therefore insisting that packet seed had to have both statements. Item (d) was proposed to clarify that one or the other statement could be used.

Agenda Item #17 – Nominating Committee for members approaching term expiration

Chairman Scarlett noted that Ron Tingley's term would be expiring soon. He appointed Rick Falconer, George Hansen and Marc Meyer to serve on the nominating committee and requested that they provide a report at the next meeting.

Agenda Item #18 & 19 – Closed Executive Session and Reconvene Public Meeting

Chairman Scarlett stated that none of the members requested a closed executive session.

Agenda Item #20 – Date for the next meeting

Chairman Scarlett set the date for the next Seed Advisory Board meeting to be November 15, 2006 at the CDFA Plant Diagnostic Center on Meadowview Road.

Agenda Item #21 and #22 – Request for additional comments and adjournment

Upon receiving no response for additional comments, Chairman Scarlett requested a motion to adjourn the meeting.

Ron Tingley motioned that the meeting be adjourned. George Hansen seconded the motion. Motion carried and the California Seed Advisory Board meeting was adjourned at 11:15 am.

Respectfully submitted by John Heaton, Nov. 15, 2006